IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2257 OF 2004

Farhad K.Wadia .....Petitioner

VERSUS

The Union of India & Ors. .....

Respondents

Mr. Haresh N. Jagtiani, Senior Advocate, with Mr. Satish T. Shah

instructed by Ms. Rosita Parimal for the Petitioner

Mr.Suresh Kumar for respondent No.1

Mrs. A. Kalyanram, Assistant Government Pleader,

for respondent Nos. 2 to 4

Mr. Shyam Diwan with Mr. A.S. Doctor instructed by

M/s. Nankani & Associaties for the Intervenors.

CORAM: DALVEER BHANDARI, C.J., &
DR. D.Y. CHANDRACHUD, J.

DATE: AUGUST 16, 2004.

P.C.:-

1. This petition is directed against an order dated 9th July, 2004, by which the petitioner has been denied the permission to hold Independence Rock Concert at Rang Bhavan, Mumbai.

2. It is alleged that the petitioner is the CEO of Power Productions, a leading Audio Studio in Mumbai. The petitioner does soundtracks for movies, ad films, etc. He has been a concert promoter in India for over eighteen years and in Dubai for the last two years and has been organizing the Independence Rock Concert for the past eighteen years at Rang Bhavan. The petitioner has done a course in Sound Engineering and Music at the Elephant and Castle Polytechnic in London.

3. The first respondent is the Union of India through the Ministry of Environment and Forests concerned with protection of the environment across India. The second respondent is the State of Maharashtra responsible for enforcement of the Noise Pollution

(Control and Regulation) Rules, 2000 (“the Rules”, for short) in Maharashtra. The third respondent is the authority designated by the second respondent to enforce the Rules in the City of Mumbai. The fourth respondent is the statutory board exercising jurisdiction under various pollution control statutes.

4. The petitioner has filed this petition in the public interest as well as to seek redress in the matter of wrongful refusal of permission to hold a concert at the open air Rang Bhavan Theatre. The petitioner had made an application on 1st May, 2004 to the Manager of Rang Bhavan for booking the venue for the Independence Rock Concert scheduled for 14th and 15th August, 2004. However, vide letter dated 2nd June, 2004, he was informed by the Manager that by the directive of this Court dated 25th September, 2003, use of loudspeakers in Rang Bhavan was not permitted, since it came under the purview of Silence Zone and hence, the permission to stage the Independence Rock Concert in Rang Bhavan was denied. The petitioner' sapplication was forwarded to the Directorate of Cultural Affairs, Government of Maharashtra, for the said permission. However, vide letter dated 9th July, 2004, the permission was refused by the Director of Cultural Affairs, stating

that according to the order dated 25th September, 2003 passed by this Court in Notice of Motion No. 449 of 2003 in Writ Petition (PIL) No. 2053 of 2003, Rang Bhavan, the open-air auditorium, fell under the purview of a Silence Zone, and, therefore, the request for holding concert thereat cannot be granted.

5. The Division Bench of this Court consisting of the Hon'ble Mr.C.K.Thakker, Chief Justice (as His Lordship then was) and the Hon'ble Mr. Justice Abhay S. Oka had occasion to examine the same issue in detail in Notice of Motion No. 449 of 2003 in Writ Petition (PIL) No. 2053 of 2003. The Court passed the order. The relevant portion of the order reads as under:-

> "(1) Pending hearing and final disposal of this petition, i.e., Writ Petition No. 2053 of 2003, no loudspeaker permission be granted in respect of "Silence Zone" as defined and discussed in the Noise Pollution (Regulation & Control) Rules, 2000, as amended from time to time.
>
> "(2) Pending hearing and final disposal of the

petition, the respondents are directed to issue loudspeaker permission verifying and certifying before granting permission that the loudspeaker will not be used in a designated Silence Zone.

"(3) The authorities will also ensure implementation and observance of the conditions mentioned in the permission.

"(4) It is also clarified that in case the petitioners point out that there is violation at any place, the authorities will take appropriate action in accordance with law.

"4. Notice of Motion is accordingly disposed of."

6. It may be pertinent to mention that a Review Petition against the said order was dismissed by an order dated 19th December, 2003. The said order has been passed carefully after balancing the equities. In our considered opinion, the well-reasoned order of the Division Bench of this Court does not require any interference. The Writ Petition, being devoid of any merit, is accordingly dismissed.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD, J.